

Order

**Michigan Supreme Court
Lansing, Michigan**

February 5, 2008

Clifford W. Taylor,
Chief Justice

ADM File No. 2006-09

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

Proposed Amendment of
Rule 7.202 of the
Michigan Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 7.202 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will be considered at a public hearing by the Court before a final decision is made. The notices and agendas for public hearings are posted on the Court's website at www.courts.michigan.gov/supremecourt.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Deletions are indicated by strikethrough and insertions by underline.]

Rule 7.202 Definitions

For purposes of this subchapter:

(1)-(5)[Unchanged.]

(6) "final judgment" or "final order" means:

(a) In a civil case,

- (i) the first judgment or order that disposes of all the claims and adjudicates the rights and liabilities of all the parties, including such an order entered after reversal of an earlier final judgment or order,
- (ii) an order designated as final under MCR 2.604(B),

- (iii) in a domestic relations action, a postjudgment order affecting the custody of a minor,
- (iv) a postjudgment order awarding or denying attorney fees and costs under MCR 2.403, 2.405, 2.625 or other law or court rule,
- (v) An order denying governmental immunity to a governmental party, including a governmental agency, official, or employee under MCR 2.116(C)(7) or an order denying summary disposition under MCR 2.116(C)(10) in which a defendant raises a claim of governmental immunity;

(b) [Unchanged.]

Staff Comment: This proposed amendment would clarify that motions for summary disposition that involve claims of governmental immunity based on MCR 2.116(C)(7) and (C)(10) that are denied are appealable by right in the Court of Appeals. This proposed language is designed to address the jurisdictional issue that arose in the cases of *Newton v Michigan State Police*, 263 Mich App 251 (2004) and *Walsh v Taylor*, 263 Mich App 618 (2004).

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on this proposal may be sent to the Supreme Court Clerk in writing or electronically by June 1, 2008, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to ADM File No. 2006-09. Your comments will be posted, along with the comments of others, at www.courts.supremecourt/resources/administrative/index.htm.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

February 5, 2008

Corbin R. Davis
Clerk